

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 94-598-S - ORDER NO. 96-37✓
JANUARY 11, 1996

IN RE: United Utility Companies, Inc.,)	ORDER
)	DENYING
Complainant,)	RELIEF
)	
vs.)	
)	
Stan Brown, Shoals Subdivision,)	
)	
Respondent.)	
)	
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the complaint of United Utility Companies, Inc. (United or the Company) against Stan Brown (Brown) of Greenville County, South Carolina. United alleges that Brown owes it \$6,950 for tap fees owed pursuant to a June 25, 1990 agreement. Brown denies that he owes the tap fees, and instead alleges that United owes him money for over-payments.

A hearing was held on this matter on November 28, 1995 at 11:00 a.m. in the offices of the Commission, with the Honorable Rudolph Mitchell, Chairman, presiding. United was represented by Richard Whitt, Esquire. United presented the direct and rebuttal testimony of Mr. Rick Bryan. The Respondent, Stan Brown was represented by Adam Fisher, Esquire. Brown's testimony was

presented. The Commission Staff was represented by F. David Butler, General Counsel.

The gravamen of United's complaint against Brown is that Brown owes the Company \$6,950 for tap fees with regard to certain lots in the Shoals Subdivision in Greenville County, South Carolina, pursuant to a June 25, 1990 agreement between the Company and Mr. Brown. The agreement was approved by the Commission.

Brown alleges that the agreement contained numerous errors from the beginning, and that the evidence shows that there was much confusion with regard to application of monies submitted by him to United. An examination of Hearing Exhibit 7, Brown's exhibit appears to confirm this. Brown on the other hand, submits 3 analyses to show how monies submitted by him to United should have been credited. In his first analysis, Brown alleges that United owes him \$356.96. Under Brown's second analysis, Brown has overpaid \$5,556.96, and is entitled to be paid back this money by United. Under Brown's third analysis, Brown has overpaid by \$1,306.96. Brown alleges that under any of his analyses, he has actually overpaid monies to United, and United owes him reimbursement for one of these amounts.

In this matter, United, the complainant, has the burden of proof. United must present a clear accounting of the monies due, and the payments made for each of the lots in issue. That failing, then United has failed in its burden of proof. An examination of Tab 8 of Hearing Exhibit 7 of Brown's testimony

shows that United has admitted to Brown that there has been a "bit of confusion." There appear to be considerable discrepancies in the allocation of the monies to the 3 fee categories. Even in the testimony of the United representative at the hearing, Mr. Bryan, Bryan conceded that on at least one occasion, United treated the money one way before the Commission at a prior hearing, and then treated it another way at the hearing on November 28, 1995. It appears that United has failed in its burden of proof in this matter, in that it is not clear to this Commission, through the testimony of United's witness, that Brown owes the tap fees. This confusion is not cleared up by Brown's analyses either. However, it is clear to this Commission that Brown has made numerous payments to United, and that the crediting of some of these amounts to various accounts is certainly in question.

Overall, after an examination of the evidence, and a review of entire record in this matter, we hold that it has not been shown that Stan Brown owes \$6,950 in tap fees as alleged by United. However, we are not convinced that United owes Brown monies either, due to the difference in the analyses that he himself presented. For this reason, we hold that no additional tap fees are due United on existing taps. However, we hold that should additional lots in the Shoals Subdivision be tapped on in the future the \$350 tap fee would apply. We do think that Brown has shown that at least the amount of said tap fees has been paid already. In any event, we hold that United may not prevail on the complaint, but it does not owe Brown any monies either.

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This Order shall remain in full force and effect until
further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)